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United Nations Commission on International Trade Law
Working Group III (Online Dispute Resolution)
Twenty-ninth session
New York, 24-28 March 2014

Annotated provisional agenda

I. Provisional agenda

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Preparation of legal standards on online dispute resolution.
5. Other business.
6. Adoption of the report.

II. Composition of the Working Group

1. The Working Group is composed of all States members of the Commission, which are the following: Algeria (2016), Argentina (2016), Armenia (2019), Australia (2016), Austria (2016), Belarus (2016), Botswana (2016), Brazil (2016), Bulgaria (2019), Cameroon (2019), Canada (2019), China (2019), Colombia (2016), Côte d'Ivoire (2019), Croatia (2016), Denmark (2019), Ecuador (2019), El Salvador (2019), Fiji (2016), France (2019), Gabon (2016), Georgia (2015), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2016), Indonesia (2019), Iran (Islamic Republic of) (2016), Israel (2016), Italy (2016), Japan (2019), Jordan (2016), Kenya (2016), Kuwait (2019), Liberia (2019), Malaysia (2019), Mauritania (2019), Mauritius (2016), Mexico (2019), Namibia (2019), Nigeria (2016), Pakistan (2016), Panama (2019), Paraguay (2016), Philippines (2016), Republic of Korea (2019), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2016), Switzerland (2019), Thailand (2016), Turkey (2016), Uganda (2016), Ukraine (2014), United Kingdom of Great Britain and Northern Ireland (2019),

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United States of America (2016), Venezuela (Bolivarian Republic of) (2016) and Zambia (2019).

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

III. Annotations to agenda items

Item 1. Opening of the session

3. The twenty-ninth session of the Working Group will be held at the United Nations Headquarters, New York, from 24 to 28 March 2014. Meeting hours will be from 10:00 a.m. to 1:00 p.m. and from 3:00 p.m. to 6:00 p.m., except on Monday, 24 March 2013, when the session will be opened at 10:30 a.m.

Item 2. Election of officers

4. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

Item 4. Preparation of legal standards on online dispute resolution

(a) Previous deliberations

5. At its thirty-third session (New York, 12 June-7 July 2000), the Commission held a preliminary exchange of views on proposals regarding future work, including in the fields of electronic commerce and arbitration.[1] At that session, it was generally agreed that further work could be undertaken to determine whether specific rules were needed to facilitate the increased use of online dispute settlement mechanisms. In that context, it was suggested that special attention might be given to the ways in which dispute settlement techniques such as arbitration and conciliation might be made available to both commercial parties and consumers. It was widely felt that the use of electronic commerce tended to blur the distinction between consumers and commercial parties. It was also recalled that in a number of countries, the use of arbitration for the settlement of consumer disputes was restricted for reasons involving public policy considerations and might not easily lend itself to harmonization by international organizations. At its thirty-fourth[2] (Vienna, 25 June-13 July 2001) and thirty-fifth[3] (New York, 17-28 June 2002) sessions, the Commission decided that future work on electronic commerce would include further research and studies on the question of online dispute resolution and that Working Group II (Arbitration and Conciliation) would cooperate with Working Group IV (Electronic Commerce) with respect to possible future work in that area.

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[1] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 17* (A/55/17), para. 385.

[2] Ibid., *Fifty-sixth Session, Supplement No. 17* (A/56/17), paras. 287 and 311.

[3] Ibid., *Fifty-seventh Session, Supplement No. 17* (A/57/17), paras. 180 and 205.

6. At its thirty-ninth (New York, 19 June-7 July 2006) to forty-first (New York, 16 June-3 July 2008) sessions, the Commission took note of suggestions that the issue of online dispute resolution should be maintained as an item for future work.[4]

7. At its forty-second session (Vienna, 29 June-17 July 2009), the Commission heard a recommendation that a study should be prepared on possible future work on the subject of online dispute resolution in cross-border electronic commerce transactions, with a view to addressing the types of e-commerce disputes that might be solved by online dispute resolution systems, the appropriateness of drafting procedural rules for online dispute resolution, the possibility or desirability to maintain a single database of certified online dispute resolution providers, and the issue of enforcement of awards made through the online dispute resolution process under the relevant international conventions.[5] The Commission had agreed on the importance of the proposals relating to future work in the field of online dispute resolution to promote electronic commerce and requested the Secretariat to prepare a study on the basis of certain proposals[6] and to hold a colloquium on the issue of online dispute resolution, resources permitting.[7]

8. At its forty-third session (New York, 21 June-9 July 2010), the Commission noted that the goal of any work undertaken by UNCITRAL in this field should be to design generic rules which, consistent with the approach adopted in UNCITRAL instruments such as the Model Law on Electronic Commerce,[8] could apply in both business-to-business and business-to-consumer environments. The Commission was informed that the commonly shared view expressed during the colloquium was that traditional judicial mechanisms for legal recourse did not offer an adequate solution for cross-border electronic commerce disputes, and that the solution — providing a quick resolution and enforcement of disputes across borders — might reside in a global online dispute resolution system for small-value, high-volume business-to-business and business-to-consumer disputes. The Commission was generally of the view that topics identified at the colloquium required attention and that work by the Commission in the field of online dispute resolution would be timely.[9]

9. At that session, the Commission agreed that a Working Group should be established to undertake work in the field of online dispute resolution relating to cross-border electronic commerce transactions, including business-to-business and business-to-consumer transactions.[10] It was also agreed that the form of the legal standard to be prepared should be decided after further discussion of the topic.

10. At its forty-fourth session (Vienna, 27 June-8 July 2011) the Commission reaffirmed the mandate of the Working Group to create a legal standard on

[4] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 17* (A/61/17), paras. 183 and 186-187; *Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)), para. 177; and *Sixty-third Session, Supplement No. 17* (A/63/17), para. 316.

[5] Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), para. 338, and A/CN.9/681/Add.2, para. 4.

[6] As contained in document A/CN.9/681/Add.2.

[7] Ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 342-343.

[8] United Nations publication, Sales No. E.99.V.4.

[9] *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 252-256.

[10] Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 257.

online dispute resolution for cross-border electronic transactions, including business-to-business and business-to-consumer transactions. The Commission decided that, while the Working Group should be free to interpret that mandate as covering consumer-to-consumer transactions and to elaborate possible rules governing consumer-to-consumer relationships where necessary, it should be particularly mindful of the need not to displace consumer protection legislation.[11]

11. At its forty-fifth session (25 June-6 July 2012) the Commission decided that:

(a) The Working Group should consider and report back at a future session of the Commission on how the draft rules would respond to the needs of developing countries and those facing post-conflict situations, in particular with regard to the need for an arbitration phase to be part of the process;

(b) The Working Group should continue to include in its deliberations the effects of online dispute resolution on consumer protection in developing and developed countries and countries in post-conflict situations, including in cases where the consumer was the respondent party in an online dispute resolution process;

(c) The Working Group should continue to explore a range of means of ensuring that online dispute resolution outcomes were effectively implemented, including arbitration and possible alternatives to arbitration;

(d) The mandate of the Working Group on online dispute resolution in respect of low-value, high-volume cross-border electronic transactions was reaffirmed, and the Working Group was encouraged to continue to conduct its work in the most efficient manner possible.[12]

12. At its forty-sixth session (Vienna, 8-26 July 2013), the Commission unanimously confirmed that decision made at its forty-fifth session and set out in paragraph 11 above.[13]

13. At its twenty-second session (Vienna, 13-17 December 2010), Working Group III commenced its work on the preparation of a legal standard on online dispute resolution for cross-border electronic transactions (A/CN.9/WG.III/WP.105). The Working Group requested at that session that the Secretariat prepare draft generic procedural rules for a future session for the consideration of the Working Group (A/CN.9/716, para. 115(a)).

14. At its twenty-third (New York, 23-27 May 2011) through twenty-eighth (Vienna, 18-22 November 2013) sessions, the Working Group continued its work on the preparation of draft procedural rules for online dispute resolution for cross-border electronic transactions on the basis of notes prepared by the Secretariat (A/CN.9/WG.III/WP.107, A/CN.9/WG.III/WP.109, A/CN.9/WG.III/WP.112 and its addendum, A/CN.9/WG.III/WP.117 and its addendum, A/CN.9/WG.III/WP.119 and its addendum, A/CN.9/WG.III/WP.123 and its addendum).

[11] Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), para. 218.
[12] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), under preparation.
[13] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), under preparation.

15. At its twenty-ninth session (New York, 24-28 March 2014), the Working Group is expected to continue its work on the preparation of draft procedural rules for online dispute resolution for cross-border electronic transactions.

(b) Documentation

16. The Working Group will have before it a note by the Secretariat regarding the preparation of legal standards on online dispute resolution for cross-border electronic transactions: draft procedural rules (A/CN.9/WG.III/WP.127 and its addendum) as well as a note in relation to draft guidelines for stakeholders in the ODR process (A/CN.9/WG.III/WP.128).

17. A limited number of the following background documents will be made available at the session:

Reports of the United Nations Commission on International Trade Law on the work of its forty-third session (*Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17)); forty-fourth session (*Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 17* (A/66/17)); forty-fifth session (*Official Records of the General Assembly, Sixty-seventh Session, Supplement No. 17* (A/67/17)); and forty-sixth session (*Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17));

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-second session (A/CN.9/716);

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-third session (A/CN.9/721);

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-fourth session (A/CN.9/739);

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-fifth session (A/CN.9/744);

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-sixth session (A/CN.9/762);

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-seventh session (A/CN.9/769);

Report of the Working Group III (Online Dispute Resolution) on the work of its twenty-eighth session (A/CN.9/795);

Online dispute resolution for cross-border electronic commerce transactions: draft procedural rules and notes by the Secretariat (A/CN.9/WG.III/WP.123 and its addendum; A/CN.9/WG.III/WP.124).

18. Relevant UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.org) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents by accessing the Working Group's page in the "Working Groups" section of the UNCITRAL website.

19. The Working Group may wish to consider reviewing the guidance from the Commission regarding the future deliberations of the Working Group as set out in Section VII of the Report of the United Nations Commission on International Trade Law on the work of its forty-sixth session (*Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17)).

Item 6. Adoption of the report

20. The Working Group may wish to adopt, at the close of its session, a report for submission to the forty-seventh session of the Commission scheduled to be held in New York, from 7 to 25 July 2014. The main conclusions reached by the Working Group at its ninth meeting (on Friday morning) will be summarily read out for the record at the tenth meeting and subsequently incorporated into the report.

IV. Scheduling of meetings

21. The Working Group's twenty-ninth session will last for five working days. There will be ten half-day meetings available for consideration of the agenda items. The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session,[14] the Working Group is expected to hold substantive deliberations during the first nine half-day meetings (that is, from Monday to Friday morning), with a draft report on the entire period being prepared by the Secretariat for adoption at the tenth and last meeting of the Working Group (on Friday afternoon).

22. The Working Group may wish to note that its thirtieth session is tentatively scheduled to be held in Vienna from 20-24 October 2014.

[14] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), para. 381.